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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/528,522

10/11/2005

Kexin Xu

T38.12-0001

8284

27367 7590 06/15/2007
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EXAMINER

LAMPRECHT, JOEL

ART UNIT

PAPER NUMBER

3737

MAIL DATE

DELIVERY MODE

06/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,522

Applicant(s)

XU ET AL.

Examiner

Joel M. Lamprecht

Art Unit

3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/11/05, 3/18/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Backhaus et al (US 5,535,743). Backhaus et al disclose an optical detection method for separating surface and deep information of a medium where a light source irradiates on a measured sample through an incident unit and the light is detected after being processed, where the system can separate or recognize surface and deep information (Col 4 Line 40-Col 5 Line 20, Fig 1). Backhaus et al use a polarization method including a polarizing film, focusing lens, collection lens and positioning to allow for the backscattered light to lose polarization and reach the detector while the surface reflection is eliminated (Fig 1, 4, Col 4 Line 15 – Col 6 Line 14, Col 6 Line 60 – Col 7 Line 65). Backhaus et al additionally disclose the use of a diaphragm for the purpose of allowing through light at specific angles while blocking information from other angles along the return path (See Fig 1 Fig 4, and Col 7 Line 15 – 60, Col 4 Line 1-8). Additionally, Backhaus et al disclose the use of an optical stop for the purpose of removal of stray light and assure the collection of the desired light from the reflection within the sample (Col 6 Line 62 – Col 7 Line 15), an optical detection method wherein space imaging is used to detect deep information where the distance between a light

incident point and receiving imaging point is capable of being longer than 1mm (Fig 1, 4), using Brewster angle methods within the incident unit and receiving unit including polarizing with a film at a constant angle during a single wavelength measurement and at multiple angles during a multiple-wavelength measurement (Col 6 Line 5-55), using a measuring device which will not be influenced by a surface reflection of the sample while not being in contact with the sample itself (Col 4 Line 1-9), measuring and detecting blood glucose concentrations, measuring NIR and other optical properties across the optical range and a source diode emitting a single or multiple wavelengths (Col 3 Line 30-65, Col 7 Line 15-60), and finally the invention of Backhaus et al is capable of placing a polarizer in a parallel state of an analyzer to allow both surface and deep information to be received rather than removed through the polarization (Col 7 60-Col 8 Line 15, and subtraction information and processing information is contained in the references cited in the background of Backhaus et al).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is listed on the enclosed references cited sheet.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joel M. Lamprecht whose telephone number is (571) 272-3250. The examiner can normally be reached on Monday-Friday 7:30AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571)272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3737

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML
6/7/07



ELENI MANTIS MERCADER
SUPERVISORY PATENT EXAMINER